



07-25-07

1649
IFWExpress Mail No. EV 913 329 846 US**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application of: Martin E. Schwab

Confirmation No.: 7264

Application No.: 09/830,972

Group Art Unit: 1649

Filed: September 24, 2001

Examiner: Kolker, Daniel E.

For: NUCLEOTIDE AND PROTEIN
SEQUENCES OF NOGO GENES AND
METHODS BASED THEREON

Attorney Docket No.: 10200-003-999

PETITION FOR CORRECTION OF FILING DATE UNDER 37 CFR § 1.10(c)Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants are submitting this Petition, and supporting documents, under 37 C.F.R. § 1.10(c) to accord the proper filing date for the following documents that were mailed by "Express Mail Post Office to Addressee" service ("Express Mail") on June 21, 2007 to the U.S. Patent and Trademark Office ("USPTO"):

- (A) an Amendment under 37 C.F.R. § 1.111, accompanied by Exhibit A: a copy of Synthetic Peptides, pp. 72-77, In: Antibodies A Laboratory Manual, Harlow and Lane (eds.), 1988, Cold Spring Harbor Laboratory Press;
- (B) a Petition for Extension of Time under 37 C.F.R. § 1.136(a);
- (C) an Amendment Fee Transmittal sheet;
- (D) a Declaration of Prof. Dr. Martin E. Schwab under 37 C.F.R. § 1.132, accompanied by Exhibits 1 to 9; and
- (E) a Fifth Supplemental Information Disclosure Statement under 37 C.F.R. §§ 1.56 and 1.97, accompanied by a List of References Cited by Applicant and copies of references C15-C22.

Although the Documents (A) to (E) were deposited on June 21, 2007 with the U.S.

Postal Service using Express Mail under 37 C.F.R. § 1.10(a)(1), the USPTO accorded a filing date of June 22, 2007 to these documents as indicated by the stamp of the Office of Initial Patent Examination (OIPE) on the return receipt postcard that was enclosed with the documents on June 21, 2007 (Exhibit A). Under 37 C.F.R. § 1.10(c), any person filing correspondence that was received by the United States Patent and Trademark Office ("USPTO") and delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service ("USPS"), who can show that there is a discrepancy between the filing date accorded by the USPTO to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Director to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

- (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
- (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
- (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

37 C.F.R. § 1.10(c)(1) Is Satisfied

On July 12, 2007, the docketing department at Jones Day forwarded the return receipt postcard bearing the stamp of OIPE, which incorrectly indicates the filing date as June 22, 2007 instead of June 21, 2007 (Exhibit A), to the legal intern involved in the filing of the above documents on June 21, 2007. Accordingly, the present submission is being made

promptly after the person filing the documents became aware that the Office has accorded a filing date other than the USPS deposit date.

37 C.F.R. § 1.10(c)(2) Is Satisfied

Applicants submit herewith as Exhibit B copies of the first pages of Documents (A) to (E) as evidence that the number of the “Express Mail” mailing label, No. EV 473 971 577 US, was placed on the papers and fees that constitute the correspondence being filed prior to the original mailing by “Express Mail.”

Additionally, Applicants submit herewith as Exhibit C a copy of the Express Mail Log from the Records and Docketing Department¹ of Jones Day with certification under 37 C.F.R. § 1.10, signed by Anthony Gray, under Express Mail No. EV 473 971 577 US dated June 21, 2007 listing all documents forwarded to the USPTO via that Express Mail Number on that date. The Log shows that Documents (A) to (E) were sent June 21, 2007 under Express Mail No. EV 473 971 577 US.

37 C.F.R. § 1.10(c)(3) Is Satisfied

Finally, Applicants submit herewith as Exhibit D a true copy of the “Express Mail” mailing label with label number EV 473 971 577 US showing the “date-in” to be June 21, 2007.

Additionally, the tracking results for mailing label with label number EV 473 971 577 US are attached as Exhibit E. The tracking results show a Date of Acceptance by the U.S. Postal Service as June 21, 2007 (highlighted). These tracking results further demonstrate that Documents (A) to (E) were indeed deposited with the U.S. Postal Service on June 21, 2007.

¹ The Log has been redacted to remove all information not relevant to the above-identified application.

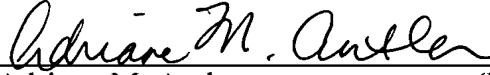
Conclusion

Applicants respectfully request that the USPTO accord a filing date of June 21, 2007 to Documents (A) to (E).

No fee is believed to be due in connection with this petition. However, if any fee is due, please charge Jones Day Deposit Account No. 50-3013.

Date: July 23, 2007

Respectfully submitted,

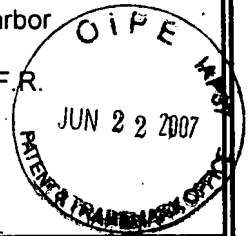
 32,605
Adriane M. Antler (Reg. No.)
JONES DAY
222 East 41st Street
New York, New York 10017
(212) 326-3939

Express Mail No.: EV 473 971 577 US
Date Mailed: June 21, 2007
Serial No.: 09/830,972 Filed: September 24, 2001
Inventor: Schwab et al.
For: NUCLEOTIDE AND PROTEIN SEQUENCES OF NOGO GENES AND
METHODS BASED THEREON

The stamp of the Patent Office hereon may be taken as an acknowledgment of the date stamped of the following:

- (1) Amendment Under 37 C.F.R. § 1.111;
- (2) a Petition for Extension of Time Under 37 C.F.R. § 1.136(a) (in duplicate);
- (3) an Amendment Fee Transmittal sheet (in duplicate);
- (4) a Declaration of Prof. Dr. Martin E. Schwab Under 37 C.F.R. § 1.132, accompanied by Exhibits 1 to 9;
- (5) Exhibit A: a copy of Synthetic Peptides, pp. 72-77, In: Antibodies A Laboratory Manual, Harlow and Lane (eds.), 1988, Cold Spring Harbor Laboratory Press;
- (6) Fifth Supplemental Information Disclosure Statement Under 37 C.F.R. §§ 1.56 and 1.97 (in duplicate);
- (7) List of References Cited by Applicant; and
- (8) Copies of references C15-C22.

File No.: 10200-003-999 Sender: Antler/Martinek/Le



Express Mail No. **EV 473 971 577 US**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Martin E. Schwab

Confirmation No.: 7264

Application No.: 09/830,972

Group Art Unit: 1649

Filed: September 24, 2001

Examiner: Kolker, Daniel E.

For: NUCLEOTIDE AND PROTEIN
SEQUENCES OF NOGO GENES AND
METHODS BASED THEREON

Attorney Docket No.: 10200-003-999

PETITION FOR EXTENSION OF TIME UNDER 37 CFR § 1.136(a)

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450


Sir:

It is respectfully requested that the time for response to the Office Action dated December 21, 2006 be extended for a period of three (3) months from March 21, 2007 up to and including June 21, 2007.

The fee for this extension is estimated to be \$1020.00. Please charge the required fee to Jones Day Deposit Account No. 50-3013. A copy of this sheet is enclosed for accounting purposes.

Respectfully submitted,

Date: June 21, 2007

 32,605
Adriane M. Antler (Reg. No.)
JONES DAY
222 East 41st Street
New York, New York 10017
(212) 326-3939

Express Mail No.: **EV 473 971 577 US**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Schwab *et al.*

Confirmation No.: 7264

Serial No.: 09/830,972

Art Unit: 1649

Filed: September 24, 2001

Examiner: Kolker, Daniel E

For: NUCLEOTIDE AND PROTEIN SEQUENCES
OF NOGO GENES AND METHODS BASED
THEREON

Attorney Docket No: 10200-003-999

AMENDMENT FEE TRANSMITTAL SHEET

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The fee required to be filed with the accompanying amendment of even date herewith concerning the above-identified application has been estimated to be \$0.00.

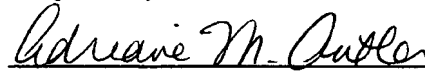
The claim amendment fee has been estimated as shown below:

(Col. 1)			(Col. 2)		(Col. 3)		<input type="checkbox"/> SMALL ENTITY		<input checked="" type="checkbox"/> OTHER THAN A SMALL ENTITY								
CLAIMS REMAINING AFTER AMENDMENT			HIGHEST NO. PREVIOUSLY PAID		PRESENT EXTRA		RATE		ADDIT. FEE		OR		RATE		ADDIT. FEE		
TOTAL	43	MINUS	102		0		x 25	\$				x 50	\$		0.00		
INDEP.	21	MINUS	31		0		x 100	\$				x 200	\$		0.00		
<input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE DEP. CLAIM								\$				\$		0.00			
								TOTAL		\$		OR		TOTAL		\$ 0.00	

Please charge any required fee to Jones Day Deposit Account No. 50-3013. A copy of this sheet is enclosed for accounting purposes.

Respectfully submitted,

Date: June 21, 2007


Adriane M. Antler 32,605
(Reg. No.)
JONES DAY
222 East 41st Street
New York, New York 10017
(212) 326-3939

Enclosure

Express Mail No.: EV 473 971 577 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Martin E. Schwab <i>et al.</i>	Confirmation No.: 7264
Application No.: 09/830,972	Group Art Unit: 1649
Filed: September 24, 2001	Examiner: Kolker, Daniel E.
For: NUCLEOTIDE AND PROTEIN SEQUENCES OF NOGO GENES AND METHODS BASED THEREON	Attorney Docket No.: 10200-003-999

AMENDMENT UNDER 37 C.F.R. § 1.111

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

In response to the outstanding non-final Office action dated December 21, 2006, please consider the following remarks and enter the amendments below. Enclosed herewith are (1) a Petition for Extension of Time for three (3) months from March 21, 2007 up to and including June 21, 2007, accompanied by the appropriate fee; (2) an Amendment Fee Transmittal sheet; (3) a Declaration of Prof. Dr. Martin E. Schwab under 37 C.F.R. § 1.132, accompanied by Exhibits 1 to 9; (4) Exhibit A: a copy of "Synthetic Peptides," pp. 72-77, in: Antibodies A Laboratory Manual, Harlow and Lane (eds.), 1988, Cold Spring Harbor Laboratory Press; and (5) a Fifth Supplemental Information Disclosure Statement accompanied by a List of References Cited by Applicant and copies of references C15 to C22.

Amendments to the Claims are reflected in the Listing of Claims which begins on page 2 of this paper.

Remarks begin at page 12 of this paper.

EXPRESS MAIL NO. 473971577US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICEApplication of: Martin E. Schwab *et al.*

Confirmation No.: 7264

Application No.: 09/830,972

Group Art Unit: 1649

Filed: September 24, 2001

Examiner: Kolker, Daniel E.

For: NUCLEOTIDE AND PROTEIN
SEQUENCES OF NOGO GENES
AND METHODS BASED
THEREON

Attorney Docket No.: 10200-003-999

DECLARATION OF PROF. DR. MARTIN E. SCHWAB UNDER 37 C.F.R. § 1.132

Sir:

I, Martin E. Schwab, of Zurich, Switzerland, do declare and state that:

- (1) I am a citizen of Switzerland residing at Berninastrasse 96, Zurich, Switzerland, CH-8057.
- (2) I am a co-inventor with Maio S. Chen of the invention described and claimed in the above-identified patent application.
- (3) I am currently Professor of Neuroscience at the Brain Research Institute at the University of Zurich, the assignee of the above-identified application.
- (4) My academic and technical experience and honors, and a list of my publications are set forth in my *curriculum vitae*, which is attached hereto as Exhibit 1.
- (5) The above-identified application discloses and claims, *inter alia*, Nogo proteins and related proteins that are free of all central nervous system ("CNS") myelin, and Nogo related nucleic acids, and methods of recombinant production of Nogo proteins.

Express Mail No.: **EV 473 971 577 US**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Schwab et al.

Confirmation No.: 7264

Application No.: 09/830,972

Group Art Unit: 1649

Filed: September 24, 2001

Examiner: Kolker, Daniel E.

For: NUCLEOTIDE AND PROTEIN SEQUENCES OF
NOMO GENES AND METHODS BASED
THEREON

Attorney Docket No.: 10200-003-999

FIFTH SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT
UNDER 37 C.F.R. §§ 1.56 AND 1.97

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the duty of disclosure imposed by 37 C.F.R. §§ 1.56 and 1.97 to inform the United States Patent and Trademark Office ("USPTO") of all references coming to the attention of each individual associated with the filing or prosecution of the subject application, which are or may be material to the patentability of any claim of the application, Attorneys for Applicants hereby invite the Examiner's attention to references C15-C22 listed on the attached form entitled "List of References Cited by Applicant." Copies of references C15-C22 are submitted herewith.

Identification of the listed references is not meant to be construed as an admission of Applicants or Attorneys for Applicants that such references are available as "prior art" against the subject application.

Applicants respectfully request that the Examiner review the foregoing references and that the references be made of record in the file history of the application.

EV473971577US

DATE: June 21, 2007

THE EXPRESS MAIL NUMBER OF THE DAY IS: EV 473 971 577 US

THE PERSON TAKING EXPRESS MAIL TO THE POST OFFICE IS: ANTHONY GRAY

EXPRESS MAIL CERTIFICATION

"Express Mail" label No. EV 473 971 577 US Date of Deposit June 21, 2007 I hereby certify that the below-listed papers or fees were inserted into a package that was addressed to the Commissioner For Patents, PO BOX 1450 Alexandria, Virginia 22313-1450 and was deposited by me with the United States Postal Service "Express Mail Post Office Addressee" service under 37 C.F.R. 1.10 on the date indicated above.

Signature: _____

Anthony Gray

Date: _____

6-21-07

Antler/Martinek/Le

10200-003-999

11

Stamp
date
different
6/22

- 1)Amendment Under 37 C.F.R. Section 1.111
- 2)Petition for Extension of Time Under 37 C.F.R. Section 1.136(a) (in duplicate)
- 3)Amendment Fee Transmittal Sheet (in duplicate)
- 4)Declaration of Prof. Dr. Martin E. Schwab under 37 C.F.R. Section 1.132, accompanied by Exhibits 1 to 9
- 5)Exhibit A: a copy of Synthetic Peptides, pp. 72-77, In: Antibodies A Laboratory Manual, Harlow and Lane (eds.), 1988, Cold Spring Harbor Laboratory Press
- 6)Fifth Supplemental Information Disclosure Statement Under 37 C.F.R. Section 1.56 and 1.97 (in duplicate)
- 7)List of References Cited by Applicant
- 8)Copies of References C15-C22.

DN



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Detailed Results:

- Delivered, June 25, 2007, 6:02 am, ALEXANDRIA, VA 22313
- Arrival at Pick-Up-Point, June 22, 2007, 11:07 am, ALEXANDRIA, VA 22313
- Arrival at Unit, June 22, 2007, 10:52 am, MERRIFIELD, VA 22081
- Acceptance, June 21, 2007, 9:07 pm, NEW YORK, NY 10017
- Enroute, June 21, 2007, 5:04 pm, NEW YORK, NY 10199

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